

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

<b>LARRY MCLEOD PULLEY,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>1:12CV364</b>
	)	
<b>LEE COUNTY SUPERIOR</b>	)	
<b>COURTHOUSE,</b>	)	
	)	
<b>Respondent.</b>	)	

**RECOMMENDATION AND ORDER**  
**OF UNITED STATES MAGISTRATE JUDGE**

Petitioner, a state prisoner, has submitted a confusing and rambling paperwriting which appears to be either an attack on his conviction and sentence in state court criminal case 98 CRS 9643 or an attempt to have this Court order a state court to provide him some form of relief or documentation. This Court does not supervise the state courts and has no power to order the state court to provide Petitioner with anything. As for any relief from his conviction or sentence, Petitioner would have to achieve this by filing a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Therefore, his submission will be construed as such. Unfortunately, this Petition cannot be further processed because court records reveal that Petitioner has already attacked the same conviction and sentence in a previous § 2254 petition [1:02CV281]. Consequently, Petitioner must apply to the United States Court of Appeals for the Fourth Circuit for an order authorizing this Court to consider the current

Petition, as required by 28 U.S.C. § 2244(b)(3)(A). *See* AO 241 (MDNC 3/97), *Instructions*, paragraph 5. Because of this pleading failure, the Petition should be dismissed. *In forma pauperis* status will be granted for the sole purpose of entering this Recommendation and Order.

**IT IS THEREFORE RECOMMENDED** that the Petition be dismissed for failure to apply to the United States Court of Appeals for the Fourth Circuit for an order authorizing this district court to consider the current Petition as is required by 28 U.S.C. § 2244.

**IT IS THEREFORE ORDERED** that *in forma pauperis* status is granted for the sole purpose of entering this Recommendation and Order.

**IT IS FURTHER ORDERED** that the Clerk shall send Petitioner a copy of this Recommendation and Order, instruction forms for filing § 2254 petitions in this Court and for filing a Motion for Authorization in the United States Court of Appeals for the Fourth Circuit, an application to proceed *in forma pauperis* (upon request), and four copies of § 2254 petition forms (more copies will be sent on request). Petitioner should keep the original and two copies of the § 2254 petition which can be submitted in this Court if Petitioner obtains approval from the Fourth Circuit.

/s/ L. Patrick Auld  
**L. Patrick Auld**  
**United States Magistrate Judge**

Date: April 16, 2012